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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.

Willows and Dunnigan, California

MM Dkt. No. 94-29
RM-8416

To: Acting Chief, Allocations Branch

JOINT REPLY COMMENTS OF
GENESIS BROADCASTING, INC.
AND TRIBUNE BROADCASTING CO.

Pursuant to the Commission's Notice of Proposed Rule Making released April 15, 1994 ("NPRM"), Genesis Broadcasting, Inc. ("Genesis"), licensee of Stations KSFM(FM), Woodland, California, and KSMJ(AM), Sacramento, California, and Tribune Broadcasting Co. ("Tribune"), licensee of Stations KYMX(FM) and KCTC(AM), Sacramento, California, hereby submit joint reply comments in the above-referenced proceeding.

INTRODUCTORY STATEMENT

The NPRM was adopted in response to a petition for rule making filed by KIQS, Inc., licensee of KIQS-FM, Willows,

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California (the "petitioner")¹, and proposes the reallocation of an FM Channel from Willows to Dunnigan, California based on allegations that such a reallocation would provide a first local service to the "community" of Dunnigan and that the reallocation would serve the public interest, thus satisfying the third and fourth allocation priorities set by the Commission.² As Genesis and Tribune explained in their comments, however, that proposed reallocation would not achieve either of these ends. Petitioner cannot provide a first local aural service to a "community" under its plan because Dunnigan does not qualify as a community; it is merely part of the Sacramento metropolitan area. Furthermore, petitioner's proposal would in fact disserve the public interest by removing the sole nighttime voice from a small rural community and transferring it to the already well-served Sacramento market. This transfer will leave the rural community of Willows without any possibility of a replacement FM Station. Because petitioner's comments do not provide further support for its contention that Dunnigan qualifies for "community" status, these

¹ Comments were submitted to the Commission on behalf of petitioner by Pacific Spanish Network, Inc. ("PSN"), the assignee of KIQS.

² The Commission's allocation priorities applicable to FM stations are (1) first aural service, (2) second aural service, (3) first local service, and (4) other public interest matters. Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870, 4876 n.8 (1989) ("Modification Order"), recon. granted in part, 5 FCC Rcd 7094 (1990) ("Modification Order II"). Neither of the first two allocation priorities are applicable here.

reply comments will address only petitioner's assertion that the reallocation would serve the public interest.

ARGUMENT

When examining whether a reallotment will serve the public interest, the Commission compares competing proposals on the basis of factors such as population served and availability of other services. Eatonton and Sandy Springs, Georgia, 6 FCC Rcd 6580, 6586 (1991). Here, the "competing proposals" are 1) the retention of the existing arrangement of allotments, or 2) the adoption of petitioner's proposed new arrangement. In such cases, the Commission "analyze[s] the proposals first to see whether, if treated as competing requests for new allotments, the new arrangement would be preferred. [If so, the Commission] then examine[s] whether disruption of existing service would outweigh the theoretical gains from the change." Id. at 6585. Here, any gains achieved under the reallotment are illusory, since the greater population served, the Sacramento metropolitan area, is already well-served by several AM and FM stations. More importantly, however, the disruption of existing FM service in Willows far outweighs any such gains.

Petitioner's Engineering Report submitted in its comments suggests that its proposal would result in an overall increase in areas and populations served. Exhibits E-7 and E-8 of petitioner's comments suggest that reallotment will result in

a gain of service to some 160,000 persons and a loss of service to over 10,000. These numbers are misleading. Reallotment would yield an overall increase in areas and populations served primarily because the proposal contemplates a move into the already well-served Sacramento market.

Even if petitioner's proposal would result in a quantitatively superior arrangement of allotments in terms of total population served, the disruption to the existing service in Willows strongly counterbalances this consideration. The Commission has stated:

The public has a legitimate expectation that existing service will continue, and this expectation is a factor we must weigh independently against the service benefits that may result from reallotting of a channel from one community to another. . . .

Sandy Springs, 6 FCC Rcd at 6586 (quoting Modification Order II, 5 FCC Rcd at 7097). In Sandy Springs, the Commission denied a reallotment proposal even though reallotment would have resulted in a gain of service to 1.8 million people, where a substantial population (400,000) would lose their existing service. Id. at 6587-88. In a similar case, the Commission rejected a reallotment proposal which would have resulted in a gain of service to almost 100,000 people in one community, but a loss of service to over 37,000 people in another. Ravenswood and Williamstown, West Virginia, 7 FCC Rcd 5116, 5118 (1992).

Here, the loss to Willows would be even greater than the numbers suggest. According to petitioner's own Engineering Report, submitted with its comments, if Willows loses its only FM station, it will be left with the signals of mostly distant AM stations which are generally of a lower technical quality than the signals of nearby FM stations, and are of questionable worth to a local listening audience interested in learning about local news and public affairs in Willows. In addition, these distant stations do not sell advertising time to local businesses in the Willows area.

Petitioner suggests that the proposed loss of Willows' only nighttime service would be mitigated by the availability of two vacant Class A channels. Contrary to petitioner's claims, however, it does not appear that any other Class A channel could readily fill the gap left at Willows. Exhibit E-12A of petitioner's comments suggests that Channel 272A might be located in the Willows area. Petitioner is incorrect. An application for a construction permit is currently on file with the Commission which would expand the coverage of the Point Arena, California station on Channel 272A, and completely encompass the area in which petitioner contemplates the location of Channel 272A. See Figure 1 of the Engineering Statement submitted with the comments of Genesis and Tribune. Furthermore, petitioner's proposal for the location of a station on Channel 292A (described in Exhibit E-12B of petitioner's comments) is not an adequate substitute for

the present FM service in Willows. As described in the attached illustration, such an allocation would not be proper because the city of license, Willows, could not be completely covered by the new channel's 70dBu signal. Accordingly, under the FCC's rules and applicable precedent, Channel 292 cannot be allocated to Willows. 47 C.F.R. § 73.315(a); Creswell, Oregon, 67 R.R.2d 56 (1989). The attached illustration also demonstrates how the use of Channel 292A would disserve the public interest because the station's 60dBu signal would not serve the same area presently served by KIQS(FM).

In any event, even if a new channel were allotted to Willows and a new station were constructed, it could be years before the loss of existing service in Willows would be remedied. The possible availability of a vacant FM channel and the existence of a local AM channel do not outweigh the loss of an existing local FM service in Willows. See Ravenswood, 7 FCC Rcd at 5118 (rejecting reallocation from Ravenswood to Williamstown even though Ravenswood would have retained a vacant FM channel and an AM station).

In sum, the proposed reallocation from Willows to Dunnigan would not result in a net service benefit for the affected communities. Depriving Willows of its only local nighttime service and potentially its only local aural service in favor of additional service to Sacramento would clearly disserve the public interest. For these reasons, and the reasons set

forth in the comments submitted by Genesis and Tribune,
petitioner's reallocation proposal should be rejected.

Respectfully submitted,
TRIBUNE BROADCASTING CO.

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Dated: June 21, 1994

**ENGINEERING STATEMENT
IN SUPPORT OF FURTHER OPPOSITION TO THE
PROPOSAL CONTAINED IN MM DOCKET 94-29
TO AMEND FM ASSIGNMENT IN SECTION 73.202
OF THE FCC RULES
(WILLOWS AND DUNNIGAN, CA)
ON BEHALF OF
GENESIS BROADCASTING INC. AND
TRIBUNE BROADCASTING CO.
June 1994**

**COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.**

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

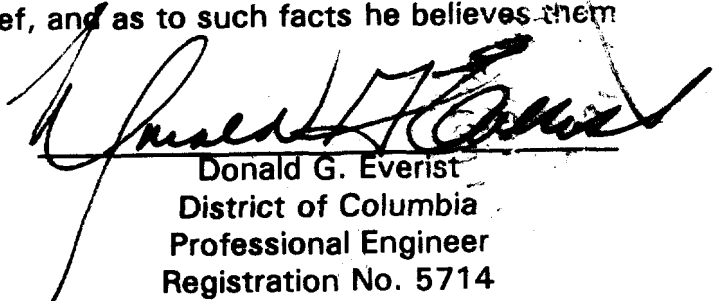
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.


Donald G. Everist
District of Columbia
Professional Engineer
Registration No. 5714

Subscribed and sworn to before me this 17th day of June, 1994.


Notary Public

My Commission Expires: 2/28/98

This engineering statement has been prepared on behalf of Genesis Broadcasting Inc. and Tribune Broadcasting Co., and is in further support of the opposition to the proposal to amend the Table of Assignments, Section 73.202 of the FCC Rules in Docket No. 94-29.¹ Specifically, Docket No. 94-29 requests to amend the frequency for Willows, California from Channel 288A to Channel 288B1 and reallocation of Channel 288B1 from Willows to Dunnigan, California.

Attached hereto is a map (Figure 1) which provides the predicted 70 and 60 dBu of the licensed KQSC(FM) [formerly KIQS-FM] 5.4 kW at an antenna height of 37 meters. The community of license, Willows and its city limits are based upon from the zoning map for City of Willows, Glenn County, California, Ordinance No. 633-92 dated June 13, 1992.

Also shown on Figure 1 is the assumed site for an operation for Channel 292A of 6 kW-100 meter height effective radiated power and antenna height above average terrain of 100 meters.

The assumed site coordinates are as follows:

North Latitude: 39° 25' 50"

West Longitude: 122° 04' 27"

The 70 and 60 dBu coverage contours for the assumed Channel 292A operation are provided.

¹MM Docket No. 94-29, Notice of Proposed Rule Making adopted April 4, 1994; released April 15, 1994, RM-8416.

The basis of the computed contours is using the eight cardinals in accordance with Section 73.312 of the FCC Rules in conjunction with the prediction of coverage provided in Section 73.313. The topographic data were derived from the NGDC 30-second computed data base.

LICENSED 60 dBu

ASSUMED 60 dBu

LICENSED 70 dBu

ASSUMED 70 dBu

+ LICENSED
KIQS-FM

WILLOWS CITY LIMITS

+ ASSUMED
292A SITE

+N 30 30 0
W 122 30 0

+N 30 30 0
W 122 0 0

GLENN
COLUSA

BUTTE
SUTTER

YUBA

CITY LIMITS
TAKEN FROM
ZONING MAP
CITY OF WILLOWS

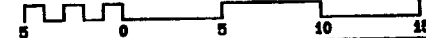
GLENN COUNTY CALIFORNIA

ORDINANCE NO. 633-92

JUNE 13, 1992

Transverse Mercator

KILOMETERS



COHEN, DIPPELL & EVERIST
Consulting Engineers
WASHINGTON, DC 20005

KIQS-FM COVERAGES

LICENSED 288A ASSUMED 292A

JUNE 1994

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "JOINT
REPLY COMMENTS OF GENESIS BROADCASTING, INC. AND TRIBUNE
BROADCASTING CO." have been mailed, postage prepaid, this 21st
day of June, 1994, to the following:

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Washington, D.C. 20006

Melitte G. Acuna
Melitte G. Acuna